

The magistrate judge recommended that defendants Sucigell, Italia, Kotzur, Myers, Oliver, Koehle, Rocca, and Kuhn be dismissed because the plaintiff did not set forth any personal allegations of wrongdoing against these defendants. A viable section 1983 claim requires allegations of personal involvement. *Rode v. Dellarciprete*, 845 F.2d 1195, 1207 (3d Cir. 1988).

The magistrate judge recommended that defendants Tennis and Williams be dismissed because liability cannot be imposed on prison officials who responded inappropriately or failed to respond to prison grievances. *Brooks v. Beard*, 167 Fed. Appx. 923, 925 (3d Cir. 2006).

The magistrate judge recommended that defendants Foose, Symons, Pensiero, Thompson, and Senko be dismissed because plaintiff failed to allege facts that indicated they acted with deliberate indifference or, in the alternative, that plaintiff failed to identify a serious medical need. *West v. Keve*, 571 F.2d 158 (3d Cir. 1978). Additionally, the magistrate judge concluded that plaintiff's basic concern with the medical defendants was mainly a dispute or a difference of opinion as to the diagnosis or type of treatment that was given. *Inmates of Allegheny Jail v. Pierce*, 612 F.2d 754, 762 (3d Cir. 1979), *Farmer v. Carlson*, 685 F. Supp. 1335, 1339 (M.D. Pa. 1988).

The magistrate judge recommended that Thompson, Senko, and Pensiero be dismissed. As to Senko, the complaint failed to allege any allegation of wrongdoing against her. With respect to Thompson, the complaint amounts to a disagreement as to the course of treatment which does not state a constitutional claim. The allegation that Thompson threatened or harassed plaintiff does not give rise to a constitutional violation. *Macleane v. Secor*, 876 F. Supp. 695, 698-99 (E.D. Pa. 1995). This also applies to defendant Pensiero who is alleged to have made threats or verbal harassment.

The Board of Probation and Parole defendants, Burke, Zelnick and Ishler, are to be dismissed because the complaint does not show that these employees

had any responsibilities regarding medical care over plaintiff who was (is) under the care of prison medical personnel. *Spruill v. Gillis*, 372 F.3d 218, 236 (3d Cir. 2004).

As to defendant Dale, plaintiff has alleged a state cause of action against him of false imprisonment. The magistrate judge recommended that he be dismissed as this claim is barred by the doctrine of sovereign immunity and the actions of this defendant do not fit within the enumerated exceptions of immunity set forth in 42 Pa. Cons. Stat. Ann. § 8522(b).

The magistrate judge further recommended that the claims against defendant Eaton, Vance, and Boone for plaintiff's failure to state a claim as to them. As to defendant Wagner, the magistrate judge recommends that plaintiff has minimally stated a claim under the Eighth and Fourteenth Amendments and recommends this action proceed as to Wagner.

On June 4, 2010, plaintiff filed a document entitled "Motion to Stop the Order to Dismiss Complaint." This will be deemed to be objections to the report and recommendation. These objections, however, are a reiteration of the claims in the complaint and do not show how the magistrate judge incorrectly cited or applied the law in his report and recommendation.

This court will adopt the report and recommendation. An appropriate order will be issued.

Dated: July 19, 2010.

s/Sylvia H. Rambo
United States District Judge

7) Plaintiff's motion for appointment of counsel (doc. 225) is **DENIED** at this time.

8) This matter is remanded to Magistrate Judge Mannion for further proceedings.

Dated: July 19, 2010.

s/Sylvia H. Rambo
United States District Judge